



June 2, 2015

The Honorable Michael Rodrigues, Chairman  
The Honorable Jay Kaufman, Chairman  
Joint Committee on Revenue  
State House  
Boston, MA 02133

**RE: In Support of HB.2585 Conservation Land Tax Credit (with an amendment)**

Dear Chairman Kaufman and Chairman Rodrigues,

Thank you for the opportunity to provide testimony to the Joint Committee on Revenue in support of H.2585, An Act Relative to Land Conservation Incentives.

This bill would raise the annual cap of the Conservation Land Tax Credit (CLTC) Program from \$2 million to \$5 million per year, which we believe would greatly increase private land donations with multiple public benefits.

**Program Description**

The CLTC program allows taxpayers (individuals and corporations) a refundable conservation land tax credit for qualified donations of certified land to a public or private conservation agency. Currently, the credit is subject to an annual \$2 million cap and is equal to 50% of the fair market value of the qualified donation up to a maximum credit of \$75,000 for each qualified donation. The certification process is conducted by the Executive Office of Energy and Environmental Affairs (EEA) for land that is permanently protected and has significant conservation value, such as farming or forestry, wildlife protection or water quality.

## Conservation Outcomes and Efficiency

Enacted in 2008, program was launched in the fall of 2011. For Calendar Years 2011 through 2014 combined: *Each \$1 of state tax credits has leveraged \$4.81 of private land donated value.*

- The total appraised value of the donated conservation land is: \$32.5 million
- The total cost to the state of the tax credits paid is: \$6.7 million

*Total acres permanently protected 7,673 including following acres of critical resources (Note: some overlap among these categories, so the total acreage and sum of the categories do not match):*

- Habitat for rare species: 7,712 acres
- Prime Forest Soils (working forests): 4,271 acres
- Prime Agricultural Soils (working farms): 1,730 acres
- Natural good/services (water quality protection): 513 acres

CLTC is a highly efficient way to permanently conserve land. For example, between 2011 and 2013, the program conserved land for an average cost to the state of just under \$1,000 per acre. This is an economical figure given the high value of the land protected. Another benefit of the program is that the vast majority of land will be protected by land trusts and to lesser extent towns so that the future stewardship cost of this protected land will not affect future state budgets.

## Supply and Demand

Since the first application in September of 2011 through April 2015 the state received a total of 273 applications requesting a total of \$11 million worth of tax credits and applications continue to be received weekly. As of mid-April 2015, the program has 71 pending applications requesting \$4.45 million in tax credits. With only one quarter of 2015 complete, demand is at 220% of the cap. That means that not only is 2015 fully spoken for, but all of 2016 and one fourth of 2017 is also spoken for. Landowners applying today to donate their land will have to wait until calendar 2017 to do so.

## Timeliness

We are eager to see the Legislature increase the cap as soon as possible. The long wait for the credits is impacting the effective use of the credit as a conservation tool. Many land trusts have will donors who are waiting on the credit to close a land deal. Many landowners are cash poor and land rich and need the credit to help with family expenses such as medical or college. Many landowners are aging and cannot wait for the credit.

A recent EEA survey of forest landowners has shown a high level of interest among the group in protecting their lands. Of the 420 survey respondents (38% of the 1,100 owners), two thirds said they were interested in permanently conserving their forest land with 40% saying they have contacted a conservation organization about protecting their forest. If we do not provide options for these landowners, they may not be able to implement their conservation priorities and important ecological and recreational resources will be lost.

## Justification: Economic Benefits of Land Conservation

In a report released in September 2013, The Trust for Public Land analyzed the economic value of natural goods and services provided by lands conserved by Massachusetts between 1998 and 2011 (<http://cloud.tpl.org/pubs/benefits-ma-roi-report.pdf>). For every \$1 invested in land conservation, \$4 in natural resource goods and services is returned to the Massachusetts economy. These services include water quality

protection, flood control, air pollution removal and storm water management. Other direct economic benefits include:

- Visitors to Massachusetts spend an estimated \$16.9 billion each year and generate \$1.1 billion in state and local taxes. The total economic impact of this travel is \$26.9 billion. Tourism supports nearly 125,000 jobs, which provides \$3.63 billion in wages per year.
- Outdoor recreation generates \$10 billion in consumer spending, \$739 million in state and local tax revenue, 90,000 jobs, and \$3.5 billion in wages and salaries each year in the state.
- Agriculture, forestry, commercial fishing, and related processing activity are responsible for \$13 billion in output, and 147,000 jobs in Massachusetts.

### **Justification: Revenue Cycling**

All of the economic benefits listed above related to land conservation help generate revenue for the Commonwealth. Although we have not conducted an economic analysis of the revenue generated on the land protected under the CLTC, the working lands generate revenue from agriculture and timber operations. The recreation activities on conservation land, such as hunting and fishing, also generate revenue for the Commonwealth. And the water supply protection lands save expenditures on water treatment paid for by revenues.

### **Justification: Expert Support**

Since the enactment of the CLTC, the Legislature established the Massachusetts Commission on Financing Forest Conservation which produced a report in July 2011: <http://www.mass.gov/eea/docs/eea/land/forest-consv-financing-rpt-jul15-2011.pdf>. Among the recommendations was to increase the cap on the CLTC to \$20 million per year (See Recommendation 1.1, page 8). Commission members included experts from academia, state conservation agencies, conservation organizations and elected officials (Representative Kulik and Senator Brewer).

### **Justification: Strategic Investment**

The Commonwealth has protected about half of the high priority conservation land identified in collaboration between the environmental agencies and conservation community. Currently about 24 percent of the Commonwealth is protected as open space which is owned by state and federal agencies, municipalities, private landowners and nonprofit conservation organizations, and about 23% is developed. Therefore, there are about 2.75 million acres of private land that is unprotected and undeveloped which is owned by approximately 350,000 land owners. Statewide conservation plans recommend ultimate protection of about 1 million acres of those remaining acres, which include prime drinking water supply protection, wildlife habitat, coastal resources, farmland, recreation sites and working forests. Assuming these remaining “top priority conservation” lands of the state are owned by about 100,000 owners, the potential applicant pool for this program is huge. The program has already become a key conservation tool to highlight when they approach landowners for donations. The land trusts are also driving the high quality of the natural resources conserved under this program – as they are actively reaching out to owners of strategic land and Massachusetts has the most land trusts on a per capita basis in the nation.

### **Justification: Leveraging the Commonwealth Capital Investment**

Commonwealth bond funds for land acquisition and this tax credit for private donation of conservation land interests are two very different approaches to further a shared objective: the strategic and leveraged

conservation of open space and natural resources. In essence, the tax incentive has been a great way to stretch the bond dollars and achieve more with the same bond spending.

State agencies work to leverage the bond funds by collaborating with other entities and leveraging additional investments (e.g., nonprofit conservation organizations, municipalities, federal agencies, private landowners, etc.) and by negotiating below fair market value “bargain sales” with owners, for purchase at below the market value of the land. When a state agency or land trust negotiator sits down with a landowner, the CLTC is part of a broad array of complementary strategies to eventually bring the project to completion.

### **Legislative History**

Senator Brewer and Representative Kulik, along with Representative Bradley Jones, led the efforts to enact the CLTC into law. When the Legislature enacted the 2008 Environmental Bond, it included an outside section that proposed the establishment of CLTC. The Governor stated his strong support for the program, but vetoed the outside section calling for a \$2 million annual cap. Later in the same session, the legislature enacted a revised version of a stand-alone bill that included the \$2 million annual cap and a delayed start date until 2011. The Governor signed the revised stand-alone bill into law (See G.L. c. 62, § 6(p) and c. 63, § 38AA.). Before the program started, the Legislature made some technical corrections to the law at the recommendation of the Department of Revenue (DOR).

As part of advocacy for the Environmental Bond, the *Commonwealth Conservation Council* (CCC) requested that the Legislature increase the annual cap of the program from \$2 million to \$5 million and also increase the individual credit from \$50,000 to \$75,000. The CCC is comprised of land and water conservation organizations, environmental groups, private landowners, sportsmen/women, farmers, foresters and businesses -- representing more than 400,000 families committed to the preservation of natural resources in Massachusetts. CCC members include: American Farmland Trust, Appalachian Mountain Club, Environmental League of Massachusetts, Gun Owners Action League, Massachusetts Association of Conservation Commissions, Mass Audubon, Massachusetts Forest Alliance, Massachusetts Land Trust Coalition, Massachusetts League of Environmental Voters, Massachusetts Rivers Alliance, Sierra Club, The Nature Conservancy, The Trust for Public Land, and The Trustees of Reservations.

During the debate of the 2014 Environmental Bond, the Legislature amended the bill to increase the individual credit from \$50,000 to \$75,000. The landowner’s “due diligence” costs of making a donation (land survey, appraisal, title work, future stewardship endowment) can exceed \$20,000 making the incentive much smaller than it appears. Also, Owners of larger and more valuable land would consider using the program with the larger incentive.

### **Tax Expenditure Commission**

The CLTC program meets the recommendations of the *Tax Expenditure Commission* (April 2012) which provides guidelines, including the following, along with our answer in parentheses.

- **Clear public policy purposes:** The CLTC provides incentives for donation of high-priority conservation land to permanently protect: wildlife, forestry, agriculture, historic, water supply) The

certification criteria are outlined in EEA's regulation, (301 CMR 14.00) and Department of Revenue's regulation (830 CMR 62.6.4).

- **Effective means of accomplishing those public policy purposes:** EEA certifies land for conservation value; the land is permanently conserved; land trusts do the local leg-work; private landowners voluntarily donate land.
- **Appropriate metrics for assessing the effectiveness of tax expenditures:** See above under Justifications: -- acreage of land conserved by category; value of land compared to state investment; leveraging private resources.
- **Claw-back:** The land is permanently conserved so there is no need for clawback.  
**Sun-setting:** Massachusetts still has a ways to go to reach the goal of preserving high priority conservation land (see above under "Strategic Investment").

Please note that due to a drafting error, we respectfully request the Committee's help in amending the bill. The bill as drafted only covers credits for corporations and we strongly recommend that it cover individuals as well. The amendment -- adding language for individuals, not changing the existing language for corporations -- would read as follows: "SECTION 2. (a) Section 6 (p) (9) of Chapter 62 as appearing in the 2014 official edition is hereby amended by striking in line 748 the number "\$2,000,000" and inserting in place thereof the following number:- "\$5,000,000."

Thank you for your time and consideration. Please feel free to contact Steve Long of The Nature Conservancy at 617-532-8367 or [slong@tnc.org](mailto:slong@tnc.org) should you have any questions.

Sincerely,

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Karen Heymann, Legislative Director, Mass Audubon

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